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REMARKS/ARGUMENTS

The Applicant has read and considered the Office Action dated December 10, 2004, and the references cited therein. Claims 1-20 are pending in the application before entry of this amendment. This amendment amends claims 1, 10, 13, 16, 18 and 19, and adds claims 21-23.

CLAIM OBJECTIONS

Claim 18 is objected to because of various informalities. The amendments made herein to claim 18 obviate the Examiner's objections. The amendments do not change the scope of the claim but merely correct the informalities pointed out by the Examiner. Therefore, claim 18 is entitled to its full scope, both literally and under the doctrine of equivalence.

SPECIFICATION AND FIGURES

The disclosure is objected to because of various informalities. The Examiner requested that the brief description of FIGS. 5 and 6 state that the embodiment represented therein are prior art embodiments and not the claimed invention. However, Applicant respectfully disagrees with the Examiner's request to indicate that FIGS. 5 and 6 are prior art embodiments. Rather, the Applicant requests herein to amend FIGS. 5-7 and includes replacement sheets of FIGS. 5-7 because FIGS. 5-7 were inadvertently labeled prior art but are not prior art.

FIGS. 5-7 are a preliminary design also developed by the same inventive entity as the present application herein as evidenced by the fact that the specification repeatedly refers to them as preliminary designs. Section 2129 of the M.P.E.P. states, in part, "even if labeled as 'prior art,' the work of the same inventive entity may not be considered prior art against the claims unless it falls under one of the statutory categories." Because the designs shown in FIGS. 5 and 6 are not prior art but rather merely embodiments of the invention, Applicant respectfully requests that the words "prior art" be removed as indicated in the replacement sheets submitted herewith to avoid confusion. The words, "prior art," were placed on the drawing figures inadvertently and without deceptive intent.

CLAIM REJECTIONS UNDER 35 U.S.C. § 112

Claims 1-15 are rejected under 35 U.S.C. § 112(1st para.) as failing to comply with the enablement requirement. Applicant respectfully traverses this rejection.

It appears as though there is confusion expressed in the Office Action regarding the effective anchor point and how the location of the effective anchor point changes with respect to the rotational location of the ramp. The Applicant respectfully submits that the effective anchor point (reference numeral 74 in the specification and figures) is described in the specification. For example, in paragraphs [0031] and [0032], the specification describes:

> "As the ramp assembly 14 rotates downward, the direct line of action moves closer to the pivot shaft 36 by virtue of the geometry of the fixed anchor points and the pivot point. The interaction of the flexible chain 72 and the camming surfaces 52, 54 together operate to deflect the line of action 60 of the spring 48 away from the direct line of action. That is, as the ramp assembly 14 rotates, the upper and lower camming surfaces 52, 54 selectively engage the flexible chain 72, shifting the location of the effective anchor point 74.
>
> [0032] The term, "effective anchor point" is the point of attachment of the end of the spring, which point's location can move as the ramp assembly 14 rotates."

In other words, as the ramp rotates up and down, the chain 72 has a last point of contact with the cam surfaces 52 or 54. The last point of contact between the chain 72 and the cam surfaces 52, 54 (i.e., "the point of attachment of the end of the spring") define the effective anchor point 74 as illustrated in the figures. As the cam surfaces 52 or 54 influence where the effective anchor point 74 is, the line of action of the spring 48 is influenced in that the line of action of the spring 48 is defined by the fixed anchor point at the top of the spring and the effective anchor point 74. These concepts are laid out in the specification and are illustrated in the figures. If the Examiner has additional questions, the Applicant's representative would be happy to assist the Examiner in answering any questions the Examiner may have.

In view of the fact that the mechanical structure of the dock leveler is shown in the figures, and the specification describes the operation of the dock leveler, the Applicant respectfully requests that the rejections under 35 U.S.C. § 112 be removed with respect to claims 1-15.

Claims 16-18 are rejected under 35 U.S.C. § 112 (2nd para.). Applicant respectfully traverses this rejection. Without conceding the propriety of the rejection, the Applicant has amended claim 16 to more clearly point out the connection between the means for flexibly coupling and the tension means. Applicant respectfully requests the rejections under 35 U.S.C. § 112 with respect to 16-20 be removed.

Claim 10 has been rejected under 35 U.S.C. § 112. Applicant respectfully traverses this rejection. However, to forward prosecution, Applicant has amended claim 10 to more clearly point out that there are one or more lower operating positions. The scope of claim 10 remains unchanged as the amendment is merely correcting an informality and is entitled to its full scope, both literally and under the doctrine of equivalence. Applicant respectfully requests that the rejection of claim 10 be removed.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102

Claim 1-4, 7 and 8 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,636,578 to *Dieter*. Applicant respectfully traverses this rejection.

The Section 102 rejection is proper if, and only if, each and every element as set forth in the claims is found – i.e., the prior art must teach every aspect of the claim. See *Verdegaall Bros. v. Oil Co. of Company*, 918 F.2d 628, 631 (Fed. Cir. 1987); see also M.P.E.P. § 2131.

Dieter does not teach or suggest a combination as recited by independent claim 1 and its dependent claims. For example, claim 1 recites a combination, including, "at least one effective anchor point that is not colinear with a first and second anchor points at at least some ramp assembly positions." *Dieter* does not teach or suggest a combination having these elements. Furthermore, in the Office Action, the elements recited such as the first anchor point 34 and the second anchor point 90 and the biasing member 88 are not related to counterbalancing the dock leveler of *Dieter*, but are rather part of the latching assembly 76. See col. 4, lines 1-15. The counterbalancing mechanism of *Dieter* is denoted as generally 56. See col. 3, lines 49-75. But irregardless of which mechanism is reviewed in *Dieter* with respect to the claim language of claim 1, it is still recognized that *Dieter*

does not teach or suggest the combination recited by claim 1 and its dependent claims. Therefore, Applicant respectfully requests that the rejections of claims 1-4, 7 and 8 under 35 U.S.C. § 102(b) as being anticipated by *Dieter* be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,460,175 to *Beckworth, et al.* in view of U.S. Patent No. 5,335,451 to *Druzynski*. The Applicant respectfully traverses these rejections.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. See M.P.E.P. § 2142.

Neither *Beckworth* nor *Druzynski*, either separately or in combination, teach or suggest the combination recited by claim 1 and its dependent claims. For example, claim 1 recites "at least one effective anchor point that is not colinear with the first and second anchor points at at least some ramp assembly positions." Both *Beckworth* and *Druzynski* have fixed anchor points where the spring attaches to the assembly upon which it is connected. The movement of the devices of both *Beckworth* and *Druzynski* does not introduce an effective anchor point different than the first or second anchor points. Because *Beckworth* in view of *Druzynski* does not teach or suggest that the combination recited by claim 1, Applicant respectfully requests that claim 1 and its dependent claims 2-15 have the rejections removed under 35 U.S.C. §1.03 under *Beckworth* in view of *Druzynski*.

With respect to claims 16-18, neither *Beckworth* nor *Druzynski* teach or suggest a combination recited in claim 16 and thus its dependent claims 17-18. For example, claim 16 recites, "camming means configured to selectively engage the means for flexibly coupling." It was

mentioned by the Examiner on page 13 of the Office Action, *Beckworth, et al.* does not disclose camming means. *Druzynski* does not cure the insufficiency of *Beckworth*. While the Examiner takes the position that the item identified in *Druzynski* as 26 to be camming means (and the Applicant does not necessarily agree with this assumption) what is evident is that there is no provision taught or described by *Druzynski* for having a camming means configured to selectively engage the means for flexibly coupling. Rather, the item 26, as in *Druzynski*, is always engaging the chain 24. There is no selective engagement taught or suggested by *Druzynski*. For at least this reason, the Applicant respectfully requests that the rejections of claim 16 and its dependent claims 17 and 18 under 35 U.S.C. § 103 in view of *Beckworth* in view of *Druzynski* be withdrawn.

With respect to claim 19, the Examiner rejects claim 19 and its dependent claim 20 under 35 U.S.C. § 103 over *Beckworth, et al.* in view of *Druzynski*. Applicant respectfully respectfully traverses this rejection.

Neither *Beckworth, et al.* nor *Druzynski*, neither separately nor in combination, teach or in combination, teach or suggest a method as recited by claim 19. For example, claim 19 recites, "providing a camming surface configured to cooperate with the flexible attachment device, to flex the flexible attachment device, and deflect the spring away from the direct line of action in response to the ramp assembly rotation." The Examiner, on page 15 of the Office Action, admits that *Beckworth* does not disclose the use of a flexible attachment device and a camming surface. *Druzynski* does not cure the insufficiencies of *Beckworth* and further teach or suggest cooperating with a flexible attachment device to flex the flexible attachment device and deflect the spring away from a direct line of action response to the ramp assembly rotation. What is alleged to be the flexible attachment device is the chain 24 of *Druzynski*. As shown in the figures, the chain 24 of *Druzynski* is kept in tension as the door moves from an open to a closed position. Thus, *Druzynski* does not teach or suggest providing a camming surface configured to cooperate with the flexible attachment device to flex the flexible attachment device and to deflect the spring away from a direct line of action in response to the ramp assembly rotation." For at least these reasons, Applicant respectfully

requests that the rejections under 35 U.S.C. § 103 of claims 19 and 20, in view of *Beckworth* in view of *Druzynski*, be withdrawn.

CONCLUSION

In view of the foregoing, reconsideration and allowance of the application are believed in order, and such action is earnestly solicited. Should the Examiner believe that a telephone conference would expedite issuance of the application, the Examiner is respectfully invited to telephone the undersigned attorney at (202) 861-1792.

Respectfully submitted,

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